

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CR-09-21-M
)	
TUESDAY SHALON JOHNSON,)	
)	
Defendant.)	

ORDER

Before the Court is defendant's Motion Requesting Modification of Sentence Pursuant to Post-Rehabilitation Programming 18 USC § 3582(c) Downward Departure, filed May 2, 2018. Defendant moves the Court to grant her a downward departure based upon her post-rehabilitative programming since incarceration.

18 U.S.C. § 3582(c) provides:

(c) Modification of an imposed term of imprisonment. – The court may not modify a term of imprisonment once it has been imposed except that –

(1) in any case –

(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that –

(i) extraordinary and compelling reasons warrant such a reduction; or

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is

not a danger to the safety of any other person or the community, as provided under section 3142(g);

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

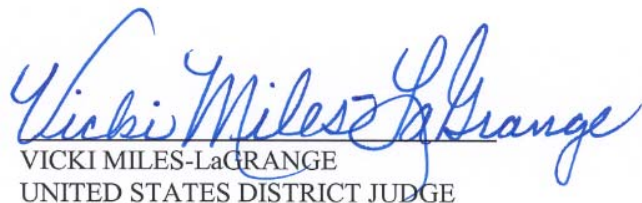
(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; and

(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

18 U.S.C. § 3582(c).

Having reviewed defendant's motion and the court file, the Court finds that it does not have the authority to modify defendant's sentence. No motion has been made by the Director of the Bureau of Prisons; no Rule 35 motion has been filed, and plaintiff's sentencing range has not been subsequently lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o). Accordingly, the Court DISMISSES defendant's Motion Requesting Modification of Sentence Pursuant to Post-Rehabilitation Programming 18 USC § 3582(c) Downward Departure [docket no. 923] without prejudice for lack of jurisdiction.

IT IS SO ORDERED this 29th day of May, 2018.


VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE